

Notice of Allowability

Application No.

08/873,978

Applicant(s)

KAYYEM ET AL

Examiner

Art Unit

Ethan Whisenant, Ph.D.

1634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the paper(s) filed 14 MAR 05.
2. ☒ The allowed claim(s) is/are 47,48,57,62-67,72 and 73.
3. ☒ The drawings filed on 12 June 1997 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

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NOTICE OF ALLOWABILITY

1. The applicant's response (filed 14 MAR 05) has been entered. Following the entry of the claim amendment(s), **Claim(s) 47-48, 57, 62-67 and 72-73** is/are pending.
2. Please note that this application has been transferred to a different examiner within Technology Center 1600. See the closing paragraph of this action for details.

DOUBLE PATENTING REJECTIONS

3. The provisional rejection of Claim 47 as being unpatentable over claim Claim 33 of U.S. 6,096,273 under 35 USC 101 is withdrawn in light of the applicant's cancellation of Claim 33 in USSN 10/081,936.
4. The rejection of Claim 73 as being unpatentable over claim Claims 1, 3, 4, 9, 10, and 19-23 of U.S. Patent No. 6,096,273 under the judicially created doctrine of obviousness-type double patenting is withdrawn in light of the applicant's properly filed Terminal Disclaimer. In addition, the rejection of Claims 57, 62, 64, 65 and 73 as being unpatentable over Claims 1, 3-4 and 9-10 of USSN 10/081,936 under the judicially created doctrine of obviousness-type double patenting is withdrawn in light of the applicant's cancellation of said claims in USSN 10/081,936.

REASON FOR ALLOWANCE

5. **Claim(s) 47-48, 57, 62-67 and 72-73** is/are allowable over the prior art of record because the prior art considered does not teach or reasonably suggest the compositions recited therein.


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CONCLUSION

6. Claim(s) 47-48, 57, 62-67 and 72-73 is/are allowable for the reason(s) of record and have now been renumbered as Claims 1-11.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ethan Whisenant, Ph.D. whose telephone number is (571) 272-0754. The examiner can normally be reached Monday-Friday from 8:30AM -5:30PM EST or any time via voice mail. If repeated attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones, can be reached at (571) 272-0745.

The Central Fax number for the USPTO is (571) 273-8300. Before faxing any papers, please inform the examiner to avoid lost papers. Please note that the faxing of papers must conform with the Notice to Comply published in the Official Gazette, 1096 OG 30 (November 15, 1989).



ETHAN WHISENANT
PRIMARY EXAMINER

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